



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

October 27, 1995

RECEIVED

OCT 27 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: In the Matter of Amendment of the Commission's
Rules and Policies to Increase Subscribership and
Usage of the Public Switched Network
Docket No. 95-115

DOCKET FILE COPY ORIGINAL

Dear Secretary Caton:

Enclosed for filing with your Office is an original and four (4) copies of the Reply Comments of the Pennsylvania Public Utility Commission in the above-captioned matter.

Please do not hesitate to contact the undersigned if you have any questions regarding this matter. Thank you for your assistance.

Very truly yours,

Maureen A. Scott
Assistant Counsel

MAS/ms

Encl.

No. of Copies rec'd
List ABCDE

024

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED

OCT 27 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

AMENDMENT OF THE COMMISSION'S)
RULES AND POLICIES TO INCREASE)
SUBSCRIBERSHIP AND USAGE OF THE)
PUBLIC SWITCHED NETWORK)

CC Docket No. 95-115

**REPLY COMMENTS OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Pennsylvania Public Utility Commission ("PaPUC" or "Pennsylvania Commission") appreciates this opportunity to submit this brief response to the comments of other parties on the issues raised in the Commission's Notice of Proposed Rulemaking ("NPRM").

I. DISCUSSION

A. PaPUC Agrees with the Majority of Commenters that the FCC Should Continue to Defer to State Disconnection and Deposit Policies.

While the PaPUC has implemented selective disconnection in Pennsylvania, and believes that it is a sound policy, the PaPUC agrees with the majority of commenters that the FCC should not mandate disconnection or deposit policies on a nationwide basis.

Each State should continue to have the ability to address the appropriateness of a particular solution given the unique circumstances within its particular jurisdiction. We believe that it would be far more expedient for the FCC to work with individual States to increase subscribership levels either through the State administration of federal USF fund alternative now proposed in Docket 80-286 or through the Joint Board process than to mandate nationwide

policies which may or may not be appropriate for some States.¹

The comments of many parties agree that the issues raised in the Commission's Notice are most appropriately addressed by State regulatory agencies.² "State commissions are best able to weigh the trade-offs in deciding which programs will best achieve or maintain high subscriber penetration in their individual states. A Commission-prescribed nationwide program, by its nature, cannot be as effective as separate efforts which are designed to meet varying state and local conditions." Bell Atlantic Comments at p. 2. This is supported by the comments of still other parties who point to the high subscribership rates in Virginia (98.0%), Wisconsin (98.4%) and Utah (98.2%) contained in more recent data (August 1, 1995) published by the FCC.³

Perhaps most important, as several parties point out, implementation of selective disconnection for interstate toll charges only will not yield the intended result, and may be very expensive and time-consuming to implement at this time. For instance, Rochester Telephone Corp. states that it would have "no means to comply with the proposed rule." Rochester

¹Accord Comments of the New York Department of Public Service, p. 3 ("Similarly, with regard to telephone subscribership levels, the NYSDPS favors a collaborative federal-state approach to the issue, rather than an approach which relies on mandated national solutions. The collaborative approach is the best means to take advantage of the variety of innovative ways that states are addressing universal service issues.")

²See Comments of Rochester Telephone Corp., p. 1 ("...Rochester urges the Commission to leave this area of Universal Service to State regulatory bodies, which have more knowledge about their populations and problems, and which have the ability to craft far more effective remedies for low subscribership than the remedies proposed in the Notice."); Colorado Public Utilities Commission Staff Comments on FCC Order 95-281 ("To the extent possible, decisions on these policies have been and should continue to be left for the states to determine without federal preemption.")

³See Sprint Comments at 6.

Comments at pp. 6-7. Rochester goes on to state that it also does not "have the capability of allocating part payments between interstate and intrastate toll..." Comments at p. 7. Rochester also correctly notes that while an interstate-only system could eventually be built with an enormous expenditure of time and money, it would be far less effective than the kind of no-blocking rule within the authority of State regulatory agencies. Comments at p. 7.⁴

We also agree that the proposed regulation of telephone deposit policies is unnecessary because existing practices already serve the Commission's goals.⁵ Additionally, many companies now offer voluntary toll restriction services⁶, and a Federal mandate in this regard applicable to interstate services only, suffers from the same defects as an interstate selective disconnection policy discussed above.⁷

Based upon our initial analysis, we agree with the majority of parties that the Commission has no authority to preempt State authority over these matters.⁸

⁴Accord Comments of Southwestern Bell Telephone Company, p. 15 ("So long as customers can be disconnected for failure to pay intrastate toll and other regulated intrastate charges or refused service for past unpaid bills, the fact that such action is not taken due to interstate charges will have no practical effect."); Comments of TDS Telecom, p. 5 ("Moreover, if intrastate toll calling is not blocked, the customer's inability to restrict intrastate toll calling could still drive bills too high.")

⁵Sprint Comments at p. 10.

⁶See Comments of Southwestern Bell Telephone Co. p. 17.

⁷See Comments of Sprint Corporation, pp. 12-13.

⁸See Comments of BellSouth, p. 5 ("...[T]he only issue the Commission is considering here is whether local service can be disconnected. That matter, however, is purely intrastate and therefore within the exclusive jurisdiction of the state commissions. There is not even a colorable claim that interstate communications are adversely effected."); MCI Comments, pp. 7-12 ("Since a separate policy over local and interstate DNP is now technically possible, the Commission's jurisdiction does not extend beyond interstate DNP.").

In conclusion, while many of the FCC's proposals are consistent with, and modeled after existing Pennsylvania policies in some instances, for the reasons discussed above and in our initial comments, we do not believe that national mandates are the solution. While we do believe that the FCC and States should continue to devise methods to increase subscribership levels, like some of the other State commenters, we support FCC-State collaboration on subscribership issues through the Joint Board process, or, through State plans submitted as part of the FCC's proposal in Docket 80-286 which would permit State administration of Federal USF receipts in the future.

B. Criticisms of the PaPUC's Selective Disconnection Policy are Unsubstantiated and Have Not Been Previously Raised Before The Pennsylvania Commission.

GTE Corp. ("GTE" or "Company") in particular raises several unsubstantiated claims regarding Pennsylvania's selective disconnection policy which it has not previously raised in any context before the PaPUC. The PaPUC is particularly concerned by GTE's characterization of the "Pennsylvania plan" as one that "rewards dishonest and manipulative behavior while imposing on exchange carriers and interexchange carriers ("IXCs") heavy costs that fall on all subscribers," and one that "represents policy moving backwards." GTE Comments at iv. Because we have not been presented with many of the GTE's concerns before or with specific evidence to substantiate the various claims, and the Company's assertions are not substantiated in their comments filed before the FCC, it is difficult to meaningfully respond to the Company's anecdotal remarks. It is also unfortunate that the Company would choose this forum to air its grievances rather than to first bring whatever facts and concerns it may have before the Pennsylvania Commission where they could be properly scrutinized and remedied, if necessary.

However, it is our belief that far from rewarding dishonest and manipulative behavior,

the Pennsylvania Commission's policies have been geared to protect important consumer interests by keeping customers connected to the local network and emergency services while giving them a second chance to bring past due amounts current. At the same time, we have attempted to balance the concerns of carriers regarding uncollectibles and prompt payment for services rendered by permitting disconnection of local service when the customer continues to inappropriately access the toll network after toll restriction.⁹ We fail to see how this policy encourages customer dishonesty or manipulative behavior. While there will always be some customers who will attempt to game or manipulate the system to their advantage, we believe that these customers are in the minority.

The PaPUC believes, consistent with the FCC's own findings, that some subscribers simply have difficulty controlling their long-distance usage which has historically resulted in termination of their access to the network altogether. However, the availability of advanced technology now makes possible disconnection of the "uncontrollable" aspect of customer usage only, making it possible to control potential toll abuse while still affording the subscriber access to the local network and emergency services as he or she makes an effort to bring any outstanding balance current. This type of policy does not in any way reward dishonesty or manipulative behavior.

As indicated in the attached Declaration of Louis Sauers, we also find some of the

⁹The PaPUC is currently examining the issue of a toll restricted customer's ability to continue to use the toll network through the use of credit cards, operator assistance or the services of other carriers in Petition of ALLTEL Pennsylvania, Inc. for Declaratory Order Addressing a Local Exchange Carrier's Right to Terminate Local Service in Cases of Toll Fraud and Unlawful Use of the Toll Network During Periods of Toll Restriction, Docket No. P-00950955.

statements contained in the Declaration of Patricia Bradford in Attachment C to GTE's Comments to be misleading in that they fail to place some of the policies contained in Chapter 64 in proper context. For instance, Ms. Bradford declares at page 6, para. 4(c) that the Pennsylvania Commission has rules and procedures that require GTE to remove "final" charges from a toll-restricted customer's bill, which would presumably make it more difficult to collect those charges. As indicated in Attachment A, this practice is in fact one of two options available to LECs. The other option would permit the Company to keep the toll arrearage on the current bill.

Ms. Bradford also states that GTE may not deny local service for unpaid toll charges that have been previously billed as "final" when a customer terminates service by virtue of a move to another location within GTE's service area. As set forth in the attached Declaration, this is true only when an existing customer requests a transfer of service from one location to another within the Company's service territory, and, nonbasic service has not previously been affected. Otherwise, pursuant to 52 Pa. Code Section 64.33, a LEC may require, as a condition for furnishing residential service to an applicant, the payment of an outstanding residential account with the LEC which accrued within the last four years, for which the applicant is legally responsible and for which the applicant was billed properly.

Further, Ms. Bradford discussion of Chapter 64's partial payment provisions at pages 6-7, para. 4(D) is somewhat misleading in that it implies that all basic charges are retired before the Company may apply any payments to toll balances. The current regulations merely require that outstanding balances for basic be retired before applying any remaining payment to

outstanding toll charges.¹⁰

The Company also alleges that its ongoing costs of providing service in Pennsylvania have increased significantly since the PaPUC's selective disconnection policy went into effect. GTE comments at 35. GTE states that it has added employees to perform the additional functions required by both Pennsylvania's and Hawaii's selective disconnection policy. To the best of our knowledge, GTE has not brought this concern or supporting information to the Pennsylvania Commission before, and thus, the PaPUC has no basis to judge the merit of the Company's claims. However, the Company is free to provide information to the Commission in this regard for our further review and analysis of Chapter 64 policies.

A cursory reading of Ms. Bradford's Declaration also reveals that there may be other reasons for the larger number of employees devoted to Pennsylvania collections. Of the six States which Ms. Bradford supervises, Pennsylvania is the second largest. In comparative terms, only one other State, Illinois, is larger in terms of overall population and Ms. Bradford does not indicate the number of employees dedicated to collections in Illinois. The other four States, Indiana, Michigan, Ohio and Wisconsin, are considerably smaller than either Illinois or Pennsylvania, and therefore, it would logically follow that the Company would have fewer employees dedicated to the collection work for these States.

We would note once again that GTE has not sought any recourse from our Commission regarding the alleged dramatic increase in administrative expenses. GTE has not elected to be subject to alternative regulation in Pennsylvania, nor has it filed a rate case in years, and

¹⁰The Bureau of Consumer Services of the PaPUC is currently examining this policy as part of its evaluation of Chapter 64.

therefore the PaPUC can only assume that the Company continues to earn an adequate rate of return despite any increased administrative costs associated with Pennsylvania's selective disconnection policy.

Both GTE and Bell Atlantic argue that they have experienced a dramatic increase in uncollectibles since the PaPUC's selective disconnection policy was instituted. GTE argues that its level of uncollectible revenues in Pennsylvania has increased threefold since the PaPUC's regulations were adopted. The Company also states that the level of uncollectibles in Pennsylvania in recent years has averaged about double the level of GTE's overall uncollectible amount. Once again, GTE has made no filings with the PaPUC to substantiate this increase in uncollectibles. Additionally, neither GTE or Bell Atlantic provide any data to substantiate their claims before the FCC or which shows the composition of the uncollectible amounts or how they were determined.

Are all of the Companies' uncollectibles related to the local service or intrastate toll service offered by the Companies? Or are some portion of the uncollectibles related to the interstate toll services, interstate 900 services, or the non-basic services of other carriers? We have never been supplied with data on the composition of either Companies' uncollectible accounts and are very interested in receiving and reviewing it in order to study the claims made. Data available to the Pennsylvania Commission indicates that other factors may account for this dramatic rise in uncollectibles. These factors include the growth and proliferation of a variety of service providers as well as an ever increasing variety of services offered by those providers and by the local service providers themselves. Once again, until the Companies present the Pennsylvania Commission with substantiation for this claim, the PaPUC is in no position to

review or redress their concerns in this regard.

GTE levels three other attacks against the PaPUC's policies under Chapter 64, all of which belie a fundamental misunderstanding of the basis for the PaPUC's selective disconnection policy. First, GTE argues that because Pennsylvania's policy allows continued access to the local network and because customer receipts are first applied to local service arrearages, Pennsylvania's "collection process is skewed to the disadvantage of interstate services." This assertion is only true if GTE has some absolute right to employ billing and collection tactics available only because of its historic status as a monopoly service provider which permits it to threaten the customer with termination of all access to the network. Selective disconnection policies such as Pennsylvania's are designed to target the "disconnection" remedy more specifically to the "problem" service associated with the outstanding arrearages and to preserve access to the network and emergency services, except in instances of abuse. The PaPUC's policies take advantage of the capability of advanced technologies and relegate the LEC's collection tactics to the same status as any other business.

GTE's second argument also demonstrates a fundamental misunderstanding of the basis for the PaPUC's selective disconnection policies. GTE questions why if local service disconnection is permitted for a failure to pay local service charges, then "how can it be unreasonable in the case of interstate long distance?" The obvious question which the Company does not even attempt to address is, "why should LECs be permitted to continue to disconnect one service for nonpayment of another service provided by a separate carrier, when technology now allows companies to selectively disconnect those services specifically associated with the outstanding balance?"

We suspect that one of the primary reasons some LECs such as GTE may be so opposed to selective disconnection is because they fear the loss of valuable billing and collection contracts if they are unable to use more heavy-handed tactics such as threatening disconnection of local service for nonpayment of toll service. However, in Pennsylvania, we do not view this as a legitimate reason to permit companies to continue to cut-off all access to the network and all services for nonpayment of a completely separate and unrelated service provided by another carrier when advances in technology now allow selective disconnection of the particular service which has generated the outstanding arrearages. In essence, as already indicated, GTE is advocating that it has some sort of absolute right to employ billing and collection tactics that are completely unavailable to virtually all other business -- all in an effort to enhance the attractiveness of its billing and collection service offering to the detriment of those telephone customers on the fringe of disconnection of basic telephone service, an essential service.

Finally, GTE argues that the FCC should preempt State policies such as Pennsylvania's, or, "...at a minimum, ... act to prevent the large-scale and continual abuse that occurs in Pennsylvania." GTE Comments at 39. Once again, we believe that this characterization of the process in Pennsylvania is highly inaccurate and unsubstantiated. GTE has not provided the PaPUC with any information to indicate that the process in Pennsylvania has resulted in "large-scale and continual abuse". Moreover, we find the Company's characterization that the interstate ratepayer is being "jobbed by state action of this kind" to be completely inaccurate and repugnant.

We do not want to leave the impression that we are saying that our regulations in Chapter 64 are perfect in every respect. There is always room for improvement in any regulatory

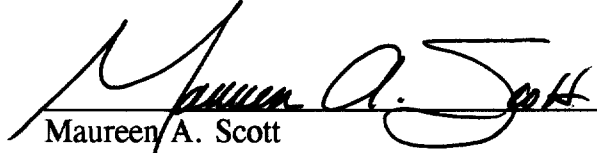
scheme, and certainly Chapter 64 is no exception. Indeed, as indicated in the attached Declaration of Louis Sauers, the Bureau of Consumer Services of the PaPUC is currently reviewing its Chapter 64 policies. We have encouraged GTE and all other Pennsylvania jurisdictional LECs and carriers to participate in this process.

In summary, many of the criticisms leveled against selective disconnection by GTE are unsubstantiated. Until GTE presents its claims and substantiation of those claims to the PaPUC, the Company's concerns, if legitimate, cannot be properly scrutinized or addressed, if necessary.

II. CONCLUSION

In conclusion, we commend the Commission for its continuing commitment to universal service. The PaPUC supports a collaborative approach between the FCC and States to address methods to increase subscribership levels in the future. For the reasons discussed above, the FCC should not issue nationwide subscribership mandates which would impinge upon the authority of the States to craft the most effective mix of policies to address the unique circumstances within their particular jurisdictions.

Respectfully submitted,



Maureen A. Scott
Assistant Counsel

Veronica A. Smith
Deputy Chief Counsel

John F. Povilaitis
Chief Counsel

Attorneys for the
Pennsylvania Public Utility
Commission
P.O. Box 3265
Harrisburg, PA. 17105-3265
Telephone: (717) 787-3639

Dated: October 27, 1995.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Amendment of the Commission's)	CC Docket No. 95-115
Rules and Policies to Increase)	
Subscribership and Usage of the)	
Public Switched Network)	

DECLARATION OF LOUIS SAUERS

I, Louis Sauers, declare the following:

- 1. I have 15 years' experience with the Pennsylvania Public Utility Commission (Pa PUC). Briefly, I joined the Bureau of Consumer Services (BCS) of the Public Utility Commission in 1980 as in Informal Complaint Investigator. In that capacity, I investigated informal complaints filed by residential ratepayers against fixed utilities and issued to the utilities and complaining parties informal reports with findings and decisions. In 1983, I became the BCS' Fixed Utilities Compliance Specialist. In this job, my primary responsibility was to informally enforce the standards of conduct for residential fixed utility service established at 52 Pa. Code, Chapter 56. In July 1987, I assumed responsibility for informal compliance activities involving the Chapter 64 residential telephone standards. In May 1991, I became BCS' Consumer Research Analyst Supervisor. In this current**

capacity, I manage the Complaint and Compliance Evaluation Section of the BCS' Division of Research and Policy.

2. My responsibilities since July 1987 have resulted in experience and familiarity with the rules and procedures discussed by Patricia Bradford in her declaration supporting GTE's comments. In regard to some of Ms. Bradford's comments, I offer the following clarifications:

(A) On page 6, para. 4(c) Ms. Bradford's statements, while not untrue, are misleading since they fail to place the rule or policy in proper context. For instance, in the first sentence at para. 4(c), Ms. Bradford states that the PUC has rules and procedures that "... require that any unpaid toll charges that have led GTE to implement an involuntary toll block on a customer's line to be separately billed to the customer as a "Final" bill, and then those final "Final" charges must be removed from the customer's normal bill." This practice is in fact one of two options recommended by BCS to LECs to reflect the intent of our Chapter 64 regulations that basic service be afforded the highest degree of protection. The other option allows LECs to keep the toll arrearage on the current bill provided (1) the company stops applying late payment charges to the outstanding toll amount that led to termination of toll usage since late payment charges are not intended to

generate revenue, (2) the LEC applies any partial payments it receives to local service balances before applying it to the toll arrearage, and (3) the LEC clarifies on subsequent suspension notices threatening local service or non basic service that the toll amount listed, while still outstanding, is not related to the notice threatening basic or non-basic services. The clear purpose of either option is to keep local service from being jeopardized for nonpayment of toll charges. In both cases, the customer clearly suffers by losing the service they have not paid for, and cannot have toll service restored until this debt is paid.

In the third sentence, at paragraph 4(c) Ms. Bradford states that "... if the customer terminates service by virtue of a move to another location within GTE's service area, and the customer asks for service, GTE may not deny local service on account of the unpaid charges that were previously billed as "final"...". This statement is misleading because of its use of the phrase "terminates service." The term "termination" is defined in the Pa PUC Chapter 64 regulations as "Permanent cessation of service after a suspension without the consent of the customer." If telephone service has been terminated, then §64.33 comes into play and the LEC may require full payment of the outstanding balances, including the "final" toll, as a condition of furnishing new telephone service.

If, however, the customer is requesting a transfer of local service from one location to another, then the LEC should not be using a toll debt to refuse the transfer. Once again, the purpose of this practice is to afford basic the highest degree of protection. In such instances, the company suffers no additional toll losses since they are merely providing local service at another location.

(B) On pages 6-7, paragraph 4(d), Ms. Bradford's description of the Pa PUC's Chapter 64 "partial payment" provisions is somewhat misleading in that it infers that all basic charges (i.e., both past due basic and current basic) are retired before the company may apply any payments to toll balances. This is not the current requirement. The current regulations merely require that outstanding balances for basic be retired before applying any remaining payment to outstanding toll charges. The rationale for this method of applying partial payment is to take local or basic out of jeopardy before applying a partial payment to toll arrearage. In other terms, partial payments are applied to afford local service protection from suspension.

3. The Pa PUC's rules and procedures, if properly implemented, are intended to prevent the threat of disconnection of local service from being used as an arbitrary collection device for collecting toll and non-basic arrearages. The BCS Staff of

the Pa PUC is currently reviewing its Chapter 64 residential telephone regulations to identify and correct deficiencies without altering the primary intent of affording local service the highest degree of reasonable protection.

I declare the foregoing is true and correct.

A handwritten signature in black ink, reading "Louis Sauers". The signature is written in a cursive style with a large, prominent "S" and a long horizontal stroke at the end.

Louis Sauers